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10 SMITH'S FOOD & DRUG CENTERS, INC.

11 UNITED STATES DISTRICT COURT
12 DISTRICT OF NEVADA

13 OSCAR POLIDORO,

14 Case No. 2:21-cv-02156-JCM-DJA

15 Plaintiff,

16 vs.

17 SMITH'S FOOD & DRUG CENTERS, INC.,
18 a foreign corporation; and DOES I-V and ROE
19 CORPORATIONS I-V,

20 **STIPULATION TO REMAND CASE TO
21 STATE COURT**

22 Defendants.

23 WHEREAS, Plaintiff OSCAR POLIDORO and his counsel of record ALLEN A. CAP of the
24 law firm CAP & KUDLER have agreed to cap the damages recoverable by Plaintiff in this litigation
25 of \$75,000.00 for all claims arising out of the incident at SMITH'S on December 8, 2020;

26 IT IS HEREBY STIPULATION AND AGREED by and between Plaintiff OSCAR
27 POLIDORO by and through his counsel of record, ALLEN A. CAP, ESQ. of the law firm CAP &
28 KUDLER, and SMITH'S FOOD & DRUG CENTERS, INC. by and through its counsel of record,
JERRY S. BUSBY, ESQ. of the law firm COOPER LEVENSON P.A. as follows:

- 29 1. That the damages in this case be limited to the maximum amount of \$75,000.00 on all
30 claims; and
- 31 2. That this case be remanded to the Eighth Judicial District Court for the State of Nevada
32 where the parties have agreed to have a neutral arbitrator appointed from JAMS, AMR,
33 or some other neutral arbitrator agreed upon by all counsel to conduct a binding
34 arbitration of this case.

1 IT IS FURTHER STIPULATED AND AGREED that in the event additional defendants are
2 added to this litigation, the cap of \$75,000.00 will still limit the damages available to Plaintiff;
3 however, if any defendant added hereinafter to this litigation successfully removes this case to
4 federal court, then the agreement to submit this case to binding arbitration will become void and this
5 matter will proceed to trial where the cap of \$75,000.00 will no longer apply and Plaintiff will be
6 able to seek a jury award of any amount.

7 Respectfully submitted this 25th day of January, 2022.

8 CAP & KUDLER

COOPER LEVENSON, P.A.

9 /s/ Allen A. Cap _____
10 ALLEN A. CAP, ESQ.
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SMITH'S FOOD & DRUG CENTERS, INC.

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16 **ORDER REMANDING CASE TO STATE COURT**

17 Pursuant to the stipulation set forth above, it is hereby ordered that the above-captioned case
18 is remanded to Nevada's Eighth Judicial District Court for the reasons addressed in this stipulation,
19 with the parties to bear their own costs and attorneys' fees.

20 IT IS SO ORDERED:

21 
22 UNITED STATES DISTRICT COURT JUDGE
23 DATED: January 28, 2022